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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,530	10/18/2001	Ross Faulkner Smith	60001.0097US01/MS172025.1	7764

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EXAMINER

ENGLAND, DAVID E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/982,530

Applicant(s)

SMITH ET AL.

Examiner

David E. England

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

### **DETAILED ACTION**

1. Claims 1 – 18 are presented for examination.

#### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 – 11, drawn to monitoring of users, classified in class 709, subclass 224.
  - II. Claims 12 – 18, drawn to format transformation, classified in class 715, subclass 523.
3. The inventions are distinct, each from the other because:
4. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as format transformation, particulars. See MPEP § 806.05(d).
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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6. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

7. During a telephone conversation with Murell Blackburn on claims 1 – 18 a provisional election was made without traverse to prosecute the invention of monitoring user's interaction, claims 1 – 11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12 – 18 are to be withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

8. Claims 1 – 11 are now presented for further examination.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1 are rejected under 35 U.S.C. 102(e) as being anticipated by Motoyama et al.

U.S. Patent No. 6662225, (hereinafter Motoyama).

11. Referencing claim 1, as closely interpreted by the Examiner, Motoyama teaches a client-side system stored on a computer, wherein the client-side system logs, in a logging file, a user's interactions with an application program module and periodically uploads the logging files to a remote server system for analysis of the logging file, wherein the client-side system comprises:

12. a logging code in communication with the application program module, wherein the logging code comprises a plurality of hooks into the application program module and an operating system of the computer, wherein when a feature of the application program module is used, one of the plurality of hooks is triggered and a data record is generated, (e.g., col. 14, lines 6 – 54);

13. a logging file in communication with the logging code, wherein the logging code stores the data record in the logging file, (e.g., col. 14, lines 6 – 54); and

14. a script file in communication with the logging file, wherein the script file is operative to upload the logging file to the remote server system, (e.g., col. 14, lines 6 – 54).

15. Referencing claim 2, as closely interpreted by the Examiner, Motoyama teaches a scheduled event stored in the operating system, wherein, in response to the scheduled event being triggered, the script file uploads the logging file to the remote server system, (e.g., col. 15, line 50 – col. 16, line 4, “*trigger*”).

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16. Referencing claim 3, as closely interpreted by the Examiner, Motoyama teaches the script file uploads the logging file to the remote server system via an Internet connection, (e.g., col. 8, lines 54 – 67).

17. Referencing claim 5, as closely interpreted by the Examiner, Motoyama teaches a computer-implemented method for tracking a user's interactions with a software application program module stored on the user's computer, the method comprising the steps of:

18. determining a user interaction with the software application program module, (e.g., col. 14, lines 6 – 54);

19. recording the user interaction in a logging file on the computer, (e.g., col. 14, lines 6 – 54);

20. determining that a scheduled event is triggered, (e.g., col. 14, lines 6 – 54);

21. in response to the scheduled event triggering, determining whether the logging file exists, and, if so, then uploading the logging file to a remote analysis server, (e.g., col. 15, line 50 – col. 16, line 4).

22. Referencing claim 6, as closely interpreted by the Examiner, Motoyama teaches the recorded user interaction comprises a time stamp, (e.g., col. 15, lines 13 – 20),

23. a user identification, (e.g., col. 15, lines 36 – 49),

24. a UI element identifier, (e.g., col. 16, lines 5 – 19), and

25. a description of the method invoked to interact with the software application program module, (e.g., col. 16, lines 48 – 67).

*Claim Rejections - 35 USC § 103*

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoyama in view of Jawahar et al. (6256620), (hereinafter Jawahar).

28. As per claim 7, as closely interpreted by the Examiner, Motoyama does not specifically teach the step of deleting the logging file on the computer after it has been uploaded. Jawahar teaches the step of deleting the logging file on the computer after it has been uploaded, (e.g., col. 15, lines 17 – 32). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Jawahar with Motoyama because deleting the logging file after sending it to a server would free up more memory at the users terminal for additional logging data to be stored and transferred.

29. Claim 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoyama and Jawahar as applied to claims 5 – 7 above, and in view of Ploetz et al. (6738798), (hereinafter Ploetz).

30. As per claim 8, as closely as interpreted by the Examiner, Motoyama and Jawahar do not specifically teach the step of renaming the logging file with a random number before uploading the logging file to the remote analysis server. Ploetz teaches the step of renaming the logging file with a random number before uploading the logging file to the remote analysis server, (e.g., col. 7, lines 45 – 64). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Ploetz with the combine system of Motoyama and Jawahar because renaming a file with a random number could prevent a system from naming a file with the same name.

31. Claims 4, 9 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoyama, Jawahar and Ploetz as applied to claims 1 – 3 and 5 – 8 above, and in view of Godfrey et al. (6662217), (hereinafter Godfrey).

32. As per claim 4, as closely interpreted by the Examiner, Motoyama, Jawahar and Ploetz do not specifically teach the script file and logging code are generated by a set-up program module included with the application program module and stored on the computer. Godfrey teaches the script file and logging code are generated by a set-up program module included with the application program module and stored on the computer, (e.g., col. 5, lines 22 – 45). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Godfrey with the combine system of Motoyama, Jawahar and Ploetz because if the user wishes to take part in testing it would be advantageous for a user to upload the proper modules to partake in such a test so the system can perform its tasks.



33. As per claim 9, as closely interpreted by the Examiner, Motoyama teaches comprising the steps of opening a session with the remote analysis server, placing the logging file into a database record set and wherein the step of uploading the logging file comprises posting the database record set to the remote analysis server, (e.g., col. 16, lines 48 – 67), but does not specifically teach Active Data Object database. Godfrey teaches the steps of opening an Active Data Object (ADO) session with the remote analysis server, placing the logging file into an ADO database record set and wherein the step of uploading the logging file comprises posting the ADO database record set to the remote analysis server, (e.g., col. 5, lines 13 – 28). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Godfrey with the combine system of Motoyama, Jawahar and Ploetz because utilizing an ADO database gives the system the ability for the database to reside anywhere on the network.

34. As per claim 10, as closely interpreted by the Examiner, Motoyama does not specifically teach the remote analysis server is a Hypertext Transfer Protocol (HTTP) server. Jawahar teaches the remote analysis server is a Hypertext Transfer Protocol (HTTP) server, (e.g., col. 4, lines 1 – 14). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Jawahar with Motoyama because utilizing an HTTP server, (web server), give the system the ability to communicate with users from different networks on the web.

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35. As per claim 11, as closely interpreted by the Examiner, Motoyama teaches a computer-readable medium comprising computer-executable instructions, which when executed, are operable to perform the steps of claim 10, (e.g., col. 14, lines 6 – 16).

### *Conclusion*

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

37. a. Burgess et al. U.S. Patent No. 5796633 discloses Method and system for performance monitoring in computer networks.

38. b. Yamane et al. U.S. Patent No. 6317786 discloses Web service.

39. c. Nishikado et al. U.S. Patent No. 6847975 discloses Proxy processing method.

40. d. Touboul U.S. Patent No. 6125390 discloses Method and apparatus for monitoring and controlling in a network.

41. e. Nine et al. U.S. Patent No. 6560611 discloses Method, apparatus, and article of manufacture for a network monitoring system.

42. f. Rasansky et al. U.S. Patent No. 5960406 discloses Scheduling system for use between users on the web.

43. g. Brennan et al. U.S. Patent No. 6871225 discloses Synthetic corn hybrid P67.

44. h. Niemi et al. U.S. Patent No. 6470388 discloses Coordinated extendable system for logging information from distributed applications.

45. i. Kaler et al. U.S. Patent No. 6467052 discloses Method and apparatus for analyzing performance of data processing system.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England  
Examiner  
Art Unit 2143

De 

  
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